

## UTAH COUNCIL ON VICTIMS OF CRIME

Thursday, January 14, 2010

Lunch - 11:30 a.m.

Meeting - 12:00 p.m.

Beehive Room  
1<sup>st</sup> Floor East Building  
Capitol Complex  
Salt Lake City, Utah

### MINUTES

#### In Attendance:

Reed Richards

Ron Gordon

Mel Wilson

Doug Fawson

Ned Searle

Andrew Stoddard, guest

Christine Watters

Laura Blanchard

Yvette Evans

Steve Schreiner

Brandon Simmons, guest

Jacey Skinner, guest

James Swink

Patricia Sheffield

Marlesse Whittington

Kyle Goudie

Jeff Carr, guest

Allison Williams

Agenda Item:	Welcome & Introductions, Reed Richards
Discussion:	Reed welcomed everyone and convened the meeting. He talked briefly about financial issues that will come up later in the meeting as we talk about legislative items and ways to get around the financial crunch. Jeff Carr, from the Department of Public Safety, introduced himself. He will be taking Mike Rapich's place while Mike is in Virginia for the FBI training. Everyone then went around the room to introduce themselves to Jeff.

#### Committee Reports:

Agenda Item:	Legislation, James Swink
Discussion: Son of Sam Statute (Sponsor- Rep. Webb)	Yvette Rodier  Andrew Stoddard from the Legal Clinic gave the report on Son of Sam stating he had talked with Ester who is drafting the bill. They thought it would have been done by mid December, but she hasn't finished it and he's not sure of its status currently. Jacey

	<p>informed Andrew that unless Representative Webb makes it a priority, if he hasn't already, then it isn't even being worked on. Rep. Webb is currently out of town so when he gets back they will ask him about priority status, which he is usually good about granting.</p>
<p>Discussion: Utah Council on Victims of Crime (Sponsor- Rep. Adams)</p>	<p>Mel Wilson</p> <p>Mel passed out the Victim's Rights Revisions, which is a priority bill. It's pretty straightforward; all it does is change the responsibility of appointment of district right's chairs from the presiding judge to the Council chair. It also provides that the Council, not CCJJ, shall have the minutes forwarded to them from any meetings. Mel also added on line 59 the chapter on restitution as apart of the semi-annual review progress as it relates to victims right's legislation.</p> <p>James asked if anyone had any other concerns relating to the Council that could be added into this bill. As the bill reads now Mel doesn't think it will have any problems, but that could change if we add anything controversial. Mel said he would look over his notes to see if there was anything else that the Legislative Committee wanted in the bill.</p>
<p>Discussion: Children's Justice Center Confidentiality Statute (Sponsor- Rep. Fowlke)</p>	<p>Laura Blanchard</p> <p>Representative Fowlke has some language that was drafted by Kris Knowlton that is still with the legislative office. This bill's purpose is to protect victims and to prevent the release of videotapes by the defendants, which are being used to intimidate and embarrass the victim. The videotapes can still be used as evidence, but they shouldn't be distributed.</p> <p>Rep. Fowlke also suggested to Laura that we combine this bill with one of her other ones. Rep. Fowlke isn't set on combining them, but still wanted an opinion on whether they would work well together. This other piece of legislation makes it a crime if you are a pro se litigant and you obtain access throughout the judicial process and then release it to someone who shouldn't have it. This legislation requires that the courts tell the people who represent themselves what their responsibility is. The problem here is that when someone is representing themselves they can see the video and other pieces of evidence, whereas if they had an attorney only their attorney would have access to it. The bottom line is that anyone who represents themselves has</p>

	<p>access to records they wouldn't normally if they had an attorney, such as in divorce cases.</p> <p>Patricia didn't think it was a great idea to combine these because it might add controversy and difficulty when things are currently running smoothly. Jacey thinks though that our bill will experience more controversy than this new one because there might be a due process issue in ours. If we put these two together and name it "pro se litigants" most people won't read it so maybe it's a good idea. The Council went back and forth on whether to combine them, but Reed and Ron thought it is a good idea so James made a motion to go forward and combine them. Reed seconded the motion and all were in favor unanimously.</p>
<p>Discussion: DNA Changes (Sponsor- Rep. Adams)</p>	<p>Reed Richards</p> <p>Reed informed the Council that there are advantages and disadvantages to this DNA bill, but that we are likely too far behind at this point to even do it. Ed Smart is proposing that law enforcement take DNA at the time of arrest rather than at the time of conviction. It's much less intrusive to get the DNA, fingerprinting, etc. up front. Ed's position is that many criminals are going to get out of jail and continue to commit crimes but we could catch them six months earlier, for example, if their DNA was already in the system. The negative aspect of this change is that it might be considered a violation of their rights if we take DNA before they are even proven guilty.</p> <p>There has been some research on other states on this issue but Reed would like research to be done within the Council. Yvette has been working on this already and found that 21 states have this law. There have been four cases to resolve whether it's constitutional, but it was split down the middle: two said it's not a violation and the other two says it is a violation. Yvette thinks that this bill is achievable, but that we only require DNA on felonies. This poses another question: Why would someone pay for the DNA fee if they're not even convicted and more importantly innocent. Currently, the inmates at the Department of Corrections pay the fee. If someone proves to be innocent it could be possible to destroy their DNA, but that still doesn't seem like a great solution. Also, if the person paid the fee we could also possibly refund them at that point.</p> <p>We currently have a bill filed, but if the Council wants to move</p>

	<p>forward it needs to be quickly. Ed is currently out of state so when he gets back we will talk with him and report on the findings from other states, as well as Utah. Yvette offered to research the finances such as how it's being paid for in other states and she will also look into how they handle felonies when they are plead down to misdemeanors.</p>
Discussion: Expungement	<p>James Swink</p> <p>James printed off and passed around some of the Expungement Act pages, but only the important pages with changes. This Act departs from where the Council has been because it's been more liberal. The bill reads very well overall though and James doesn't have many problems with it.</p> <p>On page three there are important provisions regarding eligibility requirements. For example starting on line 1078 it states that you are not eligible to apply for expungement if the conviction is a capital felony, first degree felony, automobile homicide, a registerable sex offense, etc. One thing that Steve saw that was missing is crimes related to domestic violence, which he believes should be included. Domestic violence related offenses are intentionally not in here because it's a gun issue and there's resistance to change in the policy regarding guns, though inconsistent. The DV crime is enhance able, which is one reason they don't want to add that crime in here. Ned said information was released last week that stated 70% of DV deaths involved firearms. Marlesse thought since we are really expanding what and how many crimes can be expunged that we should tighten up the other side. James would like Jacey to set up a meeting with Representative Fisher and have Ned and Lana Taylor there also.</p> <p>The meeting with Rep. Fisher is good to try but overall she does not want policy change. Her objection disregards whether it's good or bad policy, she just doesn't want anything in her bill that might cause it to not pass. Ron wanted to clarify that we weren't taking a vote on whether we support this or not because the outcome of this proposed meeting and other changes to the bill would affect how we, as a Council, would vote. Marlesse asked if we could get more specific information to include with the 70% of DV deaths included firearms argument. Yvette said her interns could do this research in a day and a half. It was also suggested that someone talk to Representative Oda because he is running a bill that involves guns, but is completely unrelated to</p>

	<p>crime and DV. Jacey will mention to Rep. Oda that Mel wants to talk with him.</p> <p>To expunge a conviction that someone has since been acquitted of they will need a report from BCI stating that they have no other felony charges or convictions before they are able to expunge. The other thing this Act now does is clearly broadens how many misdemeanors can be expunged, which James sees as a problem because it is too many and what about in cases that are pled and reduced? On page four starting on line 1098 it describes what the timeline is for each class. Currently, someone can have two misdemeanors expunged. Now, if someone had four felony charges reduced to misdemeanors they could all be expunged. James will talk with Representative Fisher and suggest that the numbers be reduced. Yvette made a good point that the type of person who already has four convictions they want to expunge isn't the type that we want expunging because they are likely to get more.</p>
Discussion: Post Conviction Rule Change	<p>Kirk Torgensen</p> <p>Kirk wasn't in attendance, but this bill doesn't have any problems.</p>
Discussion: Strangulation (Sponsor- Rep. Seelig)	<p>Ned Searle</p> <p>Ned said there haven't been any changes with the strangulation bill which is in its third year. He informed the Council that on January 20<sup>th</sup> from 8:15 – 11:30 at the Episcopal Church on 75 S. and 200 E. the YWCA Safe At Home Coalition is bringing in Gil Strat, who is a very compelling expert on strangulation. Rep. Seelig will also be there and invite some key legislators. To register you contact <a href="mailto:jzuniga@ywca.com">jzuniga@ywca.com</a>.</p> <p>They are running the bill and the resolution at the same time in hopes that one will pull through because she is worried there will be a fiscal note attached, although one shouldn't be because this crime shouldn't be charged more than it already is; this bill just helps to clarify that. Doug said he could talk to Cliff about this, but would want to talk to Rep. Seelig first.</p>
Discussion: Other Legislation	<p>Kirk is proposing a bill that originally Stuart Adams was going to take but now it will be run by the Attorney General's Office. The Factuality Innocence Bill came about as an insurance policy so that if someone is found to be innocent they cannot be paid out millions, but the money is capped at a couple hundred</p>

	<p>thousand. At first people said this was going to be so rare and no one will take advantage of being able to basically get a second chance to re try their case by claiming innocence, but in the first year the AG's office has already seen twelve cases and they can't keep up with the workload to investigate these cases. It's really become a process that is being abused mostly by convicted inmates. They are bringing up hypothetical situations for reasons why their case needs to be investigated and it is incredibly time-intensive.</p> <p>Kirk wanted to put this responsibility back onto the county's to do this work because this will continue to be a problem, but then it will also create a burden for the counties. If the AG's Office is on board then the Salt Lake County District Attorney's Office, where most are coming out of, are in favor of amending the threshold to lower it.</p> <p>Currently, the process is that the individual petitions the court for a hearing where they allege newly discovered material (of which DNA is not even a requirement). They must have a clear and convincing standard in the end, but not in the beginning as we've seen since the courts are granting these without hesitation. Once the petition is filed on "new evidence" then they can move forward. It then goes before a judge and if they feel there's something to their claim then it goes full blown. Brandon asked if there is there a limit on how many petitions they can file, but the Council is not aware of a limit.</p> <p>If they are indigent then they get appointed an attorney so really we are the ones paying for this. As it stands, it was suggested to take out the wording "provide defense counsel." Reed would also like to see that no CVR money is used. The legislator can appropriate money from the general fund.</p> <p>We don't want to convict any one who is innocent, but it could be viewed that's what we're doing if we amend it. The threshold though needs to be changed and DNA needs to be considered a requirement and not just unsubstantiated claims. Also, the person requesting all this be done should reimburse the victim for unnecessary added pain, though this may be difficult because most are in prison. Mel asked if a victim can interject to this, which we're not sure of, but currently victims are being notified if they have elected to receive notice.</p>
--	---

	This issue will be deferred to the legislative committee.
Discussion: Next Legislative Committee Meeting	The next legislative committee meeting will be held at the Roy City Police Department on January 22 <sup>nd</sup> at 11:00 a.m. Reed will check with him to see if it's available and if they have a conference calling system. As of now the committee will meet every other week and if they need to meet additionally, it will be by telephone conference call.

Agenda Item:	Annual Crime Victims Conference, Yvette Rodier
Discussion: Heads-up flyer Keynote Speakers Agenda Location Week long events	<p>The heads-up flyer and list of presenters was included in everyone's folder. The agenda is finalized, but Christine was concerned because her pending presenter, Steven Siegel, was taken off the list of presenters, so we will work on that issue. The key notes are all great speakers. The location is all worked out with Radisson and so that will allow us to focus on our attendees.</p> <p>OVC TTAC has some funds that we can apply for. We just finished the application requesting funds for the presenters, travel and other expenses related to speakers. Yvette would like the district rights committee's to be involved in planning week-long events, but not until after the brochure is finalized.</p>

Agenda Item:	SWAVO Advocacy Manual
Discussion:	Mel has spoken with Christine in the past about finding money to fund this manual, but will need to meet again. They met with SWAVO to see if they would be willing to take this on as a target/expert group. Mel and Christine will call the first meeting of the committee and get it started. This item needs to be added to the next agenda to report on.

Agenda Item:	UVAA Committee
Discussion:	From the committee only Laura and Patricia met today. Their purpose was to discuss any changes that should be recommended for the Academy. They felt like there were some things they could do to help contain costs and improve quality. They realize there is a need to have this Academy for various reasons, and especially every year. It might do more damage to hold it every other year than the money it would save. Also, the networking

	<p>that takes place is necessary. There is the possibility though of making DVD's of the training and then passing those out.</p> <p>They would like the focus to be on the advocates and not necessarily the allied professionals. Initially, the Council was involved as a committee to the Academy and Laura would like to see that advisory committee more involved again. She also wanted to make sure that the Academy is staying current with the field and various issues. Lastly, in regards to cutting costs, they wanted to make sure that the Weber State contracts are being negotiated aggressively and wondered if they were still donating as much as possible.</p> <p>The Advanced Academy, Laura and Patricia thought, could easily be done well by the SWAVO group. This advanced training would just be on topics that need to be repeated every few years such as crisis intervention, confidentiality, management modules, etc. Overall, topics that need a little more time than the one day scope of SWAVO's trainings.</p>
--	---

Agenda Item:	DV Sentencing Matrix, Ned Searle
Discussion:	Ned hopes that for the next meeting the DV Sentencing Matrix will be close to done since Moises is finishing up his research and working on final phases of the matrix. The Council would like to have a draft emailed them before the next meeting if one is available.

Agenda Item:	Juvenile Fingerprinting, Kyle Goudie
Discussion:	Kyle said that initially it seemed like any youth that was charged with a felony was getting fingerprinted and a DNA sample taken, but that process has slowed considerably. He's not sure if the courts or division are responsible for this. Kyle checked and found that in the last month only one had been done but he knows there are more youth than that. He's not sure if it's a budget issue like if the kits aren't in stock and they're not allowed to re-order. He believes that the youth are fingerprinted as they enter the detention center, but he's not sure if those prints are then forwarded. If they were forwarded and there was an order in place, they would come to youth corrections. They have found that DNA that's been taken has helped with conviction later, but it doesn't sound like the BCI is getting all the info.



	This is definitely a gray area that needs to be looked into. Reed asked Kyle to look into this and find out if they are doing these procedures in the detention center or not. If a legislative change is needed then the Council can try that next year.
--	---

Agenda Item:	Graduated Sanctions Model, Kyle Goudie
Discussion:	<p>Kyle passed around a handout which was developed in 2006 by the Division. At the time, the youth were getting more general treatment than treatment specific to their needs so this model was created in part because of that need. There is some error on this model because there is no more “wilderness” section anymore. Kyle has an electronic copy of what all the codes mean because without the codes the model is hard to interpret. If anyone wants that document feel free to e-mail him.</p> <p>There is a pre-screening done with the juvenile court and then a risk assessment done at the Division to look at their history and then decide which population they should go into because they don’t want to mix populations of severe/less severe, young age/older age, etc. then they refer to the model. There is a male and a female model, which are similar. On the model there are criteria that the youth needs to meet in each category in order to determine which treatment they will receive.</p>

Agenda Item:	POST Victimology Training, Patricia Sheffield
Discussion:	Patricia doesn’t have an update on the POST training at this time.

Agenda Item:	UCVC Per Diem Policy, Reed Richards
Discussion: Alternate Food Policy Resolution	Patricia suggested we just eat in the cafeteria beforehand individually. This will be especially easy if we continue to meet in the east building.

Agenda Item:	Next Meeting
Discussion:	<p>March 18<sup>th</sup> at noon in the Beehive Room.</p> <p>Allison will also check availability at the River Woods Marriott in Logan for the annual meeting and also see if they will honor per diem. The Council wanted first to check the 3<sup>rd</sup> week in June</p>

	and if that doesn't work then the 4 <sup>th</sup> week.
--	---

Action Items:	
	<ul style="list-style-type: none"> <li>• Yvette check on priority status of Son of Sam bill</li> <li>• Yvette research DNA issues</li> <li>• Doug work on strangulation fiscal note issue</li> <li>• Reed check on conference room for legislative meeting</li> <li>• Mel and Christine will hold the advocacy manual meeting and report on it for the next meeting</li> <li>• Ned email a copy of the Matrix before the next meeting</li> <li>• Jacey set up a meeting with Rep. Fisher</li> <li>• Mel talk with Rep. Oda</li> <li>• Kyle research juvenile fingerprinting issues</li> <li>• Allison book annual planning meeting</li> </ul>